97th Congress, 2d Session - - - - - - - Senate Document No. 97-37

VETO—S. 2577

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT MY APPROVAL S. 2577, A BILL TO AUTHORIZE APPROPRIATIONS FOR ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION FOR THE FISCAL YEARS 1983 AND 1984, AND FOR OTHER PURPOSES

OCTOBER 22, 1982.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
11-011 O WASHINGTON: 1982

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To the Senate of the United States:

I am returning without my signature S. 2577, the "Environmental Research, Development and Demonstration Act of 1983."

It should be understood that my disapproval of this legislation will in no way interfere with the conduct of any of the research programs of the Environmental Protection Agency. Pursuant to the Department of Housing and Urban Development—Independent Agencies Appropriations Act of 1983, which I signed into law on September 30, 1982, EPA will spend $220.8 million on its research activities in fiscal year 1983. The appropriations authorized for research in 1983 are 10 percent higher than in 1982, reflecting this Administration's commitment to putting environmental regulation on the soundest possible scientific footing.

While S. 2577 is unacceptable as a whole, I want to commend Congressman Cooper Evans of Iowa for contributing to this bill an amendment to authorize the Senior Environmental Assistance Program. Congressman Evans' amendment provides the authority for EPA to continue promoting meaningful employment opportunities for older Americans in Federal, State, and local agencies, as they accomplish important short-term environmental protection projects. The amendment is based on a highly successful demonstration project carried out by EPA in conjunction with the Administration on Aging and the Department of Labor. I believe the amendment would further this Administration's goals of providing productive, meaningful employment to older workers, and providing the benefits of a cleaner, safer environment to future generations.

Nevertheless, enactment of S. 2577 would represent a major step backward in achieving the goal of assuring that our vitally important environmental research programs reflect the best judgment of the scientific community, unhampered by partisan or interest group politics.

S. 2577 would mandate that the EPA Science Advisory Board membership include representatives from "States, industry, labor, academia, consumers, and the general public." This requirement runs counter to the basic premise of modern scientific thought as an objective undertaking in which the views of special interests have no role. The purpose of the Science Advisory Board is to apply the universally accepted principles of scientific peer review to the research conclusions that will form the basis for EPA regulations, a function that must remain above interest group politics.

In addition, under the statutes governing actual promulgation of EPA rules, the Administrator is obligated to seek public comment from any and all interested parties and to weigh such comment in shaping final rules. That is the stage of the rulemaking process at which involvement of special interest viewpoints is appropriate, not the earlier stage of developing a sound scientific understanding of the research findings that may be relevant to a particular rulemaking or class of rules.

Environmental regulation involves scientific, political, social, and economic judgments. The laws mandating protection of our air, water, and land against harmful pollution reflect this necessity to balance a wide range of factors. But for the entire regulatory process to function effectively, it must have as its starting point an objectively developed review of the state of scientific knowledge. The Science Advisory Board is vital to the preparation of this objective scientific review; to require that the Board become a political entity, with representatives from various special interests, would completely undermine the use of scientific knowledge in EPA rulemaking.

The maintenance of a free, essentially self-governing scientific research community is one of the great strengths of our Nation. To undermine this tradition by requiring that the scientists appointed to the EPA Science Advisory Board wear the label of "industry" or "labor" or "consumer" is a modern-day version of Lysenkoism to which I must strongly object.

In addition to imposing these new requirements on the procedures for selecting the EPA Science Advisory Board, S. 2577 contains a number of other objectionable features. It authorizes spending that is $46.4 million above the previously enacted appropriation bill; it mandates an increase in the proportion of funds devoted to basic research from 15 percent to 20 percent, which will take funds away from high-priority research needed for the support of regulatory proceedings; it mandates a duplicative and wasteful effort to create another national environmental monitoring network; and it mandates a number of research activities that are inconsistent with the previously enacted appropriation.

For these reasons, I am returning S. 2577 without my signature.

RONALD REAGAN.

THE WHITE HOUSE, *October 22, 1982.*

Ninety-seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-fifth day of January, one thousand nine hundred and eighty-two

An Act

To authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983".

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $55,685,000 for fiscal year 1983 and $59,026,000 for fiscal year 1984 for activities authorized under the Clean Air Act;

(2) $40,790,000 for fiscal year 1983 and $43,237,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $25,906,000 for fiscal year 1983 and $27,460,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $13,770,000 for fiscal year 1983 and $14,602,000 for fiscal year 1984 for interdisciplinary activities;

(8) $28,149,000 for fiscal year 1983 and $29,838,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $53,530,000 for fiscal year 1983 and $56,742,000 for fiscal year 1984 for energy activities, of which—

(A) $20,128,000 in fiscal year 1983 and $21,336,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $9,721,000 for fiscal year 1983, and $10,304,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d) Funds may be transferred between the categories listed in subsections (a) and (b) except that no funds may be transferred to any particular category listed in subsection (a) or (b) from any other category or categories listed in any such subsection if the total of the funds so transferred to that particular category would exceed 10 per centum thereof, unless—

(1) a period of thirty legislative days has passed after the Administrator of the Environmental Protection Agency or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) No funds authorized for appropriation pursuant to this Act may be used for any activities other than those authorized by this Act.

(e)(1) The Administrator shall establish a separately identified program of continuing, long-term environmental research and development for each activity listed in subsection (a) of this section. Unless otherwise specified by law, at least 20 per centum of the total funds appropriated to the Administrator for each activity listed in subsection (a) of this section shall be obligated and expended for such long-term environmental research and development under this subsection.

(2) The Administrator shall prepare an annual report on the performance of the program established under paragraph (1) of this subsection and shall submit the report to appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(A) a list of funded long-term research projects in each activity listed in subsection (a),

(B) the nature, status, and major results of funded long-term research projects,

(C) how the results of funded long-term research projects are likely to be used and what steps are being taken to foster their use, and

(D) any other pertinent information on the performance of the program established under this subsection.

(f) Appropriations made pursuant to the authority provided in section 2 of this Act shall remain available for obligation and expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

(g) At least thirty days prior to issuing any general notice of major reduction in force in any fiscal year, the Administrator shall inform the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for the reduction and the impact of the reduction on carrying out the provisions of this Act.

ENVIRONMENTAL MONITORING

SEC. 3. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $43,253,000 for fiscal year 1983 and $46,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following

review and update of the plan by program participants, the National Academy of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Administrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

ENERGY RESEARCH

SEC. 4. (a) Appropriations authorized for energy research under section 2(a)(9) shall be used for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and thereafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 3;

(4) to include in the report on air quality required under section 3(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under

this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 5. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such committees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry, and public interest organizations, as may be necessary to assist the Administrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high-risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the program, assessing the state of knowledge concerning the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

SENIOR ENVIRONMENTAL ASSISTANCE PROGRAM

SEC. 6. (a) To carry out the purposes of this Act, the Administrator of the Environmental Protection Agency is directed to develop a Senior Environmental Assistance Program, designed to assist Federal, State, and local environmental agencies in carrying out programs authorized under this Act.

(b) In providing assistance under subsection (a), the Administrator shall utilize, to the fullest extent possible, existing older American employment programs, as provided for in section 105(b)(4) of Public Law 95–478.

(c) The Administrator shall not make any grant to, or enter into any agreement with, any State, or local environmental agency for funding of any activities under this section unless such agency certifies that such activities will supplement and not supplant any existing jobs.

SEC. 7. Of the funds appropriated from the Hazardous Substance Response Trust Fund for fiscal year 1983 and fiscal year 1984, $15,000,000 may be expended for research and development activities for each fiscal year. It is the sense of the Congress that the costs of those research and development activities associated with or necessitated by the actual or threatened release of hazardous substances, as those terms are defined under Public Law 96–510, be paid for out of that fund created by Public Law 96–510, the Comprehensive Environmental Response Compensation and Liability Act of 1980.

SCIENCE ADVISORY BOARD

SEC. 8. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95–155) is amended to read as follows:

"(b)(1) The Board shall be comprised of at least nine members appointed by the Administrator from nominees recommended to the Administrator by a nominating committee. The nominating committee shall include representatives of Federal research agencies including but not limited to the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and the National Academy of Sciences and the Executive Director and representative members and former members of the Science Advisory Board. The nominating committee shall be chaired, in consultation with the Administrator, by the National Institute of Environmental Health Sciences. The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be one to three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95–155) is amended by adding at the end thereof the following: "The Board's advice and

comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

(c) The provisions of this section relating to the qualifications, appointments, and terms of members of the Board shall take effect upon the expiration of the terms of members serving on the Board as of the date of enactment of this Act.

THOMAS P. O'NEILL, JR.,

Speaker of the House of Representatives.

STROM THURMOND,

President of the Senate pro tempore.

I certify that this Act originated in the Senate.

WILLIAM F. HILDENBRAND, *Secretary.*

By MARILYN COURTOT, *Assistant Secretary.*

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